

IN THE CLAIMS:

Kindly add the following claim:

B.2
Sub
C5
--22. A method of treating at least one disease selected from the group consisting of cancer, endometriosis, uterine myomas, pituitary adenomas, BPH, and polycystic breast disease by administering to an animal in need thereof, a pharmaceutical composition comprising a targeted chimeric toxin as claimed in claim 1.- -

REMARKS

Reconsideration of the patentability of the claims of the above identified patent application is solicited in view of the above amendments and the following comments.

The examiner has issued a restriction/election requirement with respect to the claims of the above identified patent application. This requirement is respectfully traversed. However, in accord with accepted practice, applicant respectfully provisionally elects the subject matter of group I, as identified by the examiner. At present claims 1-10, 21 and new claim 22, fall within the elected group and it is urged that at least these claims be immediately substantively prosecuted.

The examiner has alleged that this application contains several groups of inventions that are not so linked as to form a single inventive concept. That is simply not so. The linking concept of this invention is the targeted chimeric toxins of claims 1-4. These novel, patentable

materials are useful to treat several different diseases, as enumerated in claims 9-20. These diseases are all different, but all are treatable with the composition of claims 1-4. Therefore, the outstanding restriction requirement has been traversed.

A restriction requirement is usually appropriate where the product can be made by a method other than that which is claimed, or the claimed method is suited to producing a different product. That is not the case here. The claimed product is made by the claimed method and the claimed method produces the claimed product.

The several uses that have been claimed are all subservient to the product claims and indeed they have been written as being dependent from a product claim. Further, new claim 22 has been added to this application. In this claim, the several claimed uses have been assembled in a Markush group. This claim is clearly generic to all of the other use claims. Its entry and the withdrawal of the restriction requirement are solicited.

There is no logic to restricting the claims of this application to a combination of the product, the method of making the product and only one use of that product. There is no reason for the examiner to require division applications to be filed directed to the uses of the instant patentable product other than in cancer treatment.

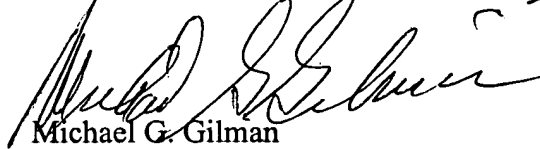
A sequence listing has been required by the examiner. This is attached hereto in both written and electronic form as required.

Serial No. 09/147,346

An extra claim fee has been filed herewith. It is believed that no other fee is due with the filing of this response. However, if any additional fee is required, kindly charge the same to the undersigned attorneys' deposit account 07-1337. It is not believed that any extension of time is due with the filing of this response. However, if an extension is required to maintain the pendency of this application, kindly consider this to be a petition therefore.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Michael G. Gilman", is written over the printed name.

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